



INDIANA UTILITY REGULATORY COMMISSION  
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IN THE MATTER OF THE INDIANA )  
UTILITY REGULATORY COMMISSION'S )  
INVESTIGATION OF MATTERS )  
RELATED TO THE FEDERAL )  
COMMUNICATIONS COMMISSION'S )  
REPORT AND ORDER AND ORDER ON )  
REMAND AND FURTHER NOTICE OF )  
PROPOSED RULEMAKING IN CC )  
DOCKET NOS. 01-338, 96-98, AND 98-147 )

CAUSE NOS. 42500, FILED  
42500-S1 and 42500-S2

MAR 15 2004

INDIANA UTILITY  
REGULATORY COMMISSION

You are hereby notified that on this date the Presiding Officers make the following Entry in Cause Nos. 42500, 42500-S1 and 42500-S2:

Evidentiary Hearings in Cause Nos. 42500-S2, 42500-S1, and 42500 are scheduled to commence before the Indiana Utility Regulatory Commission ("Commission") on April 5, 2004, April 12, 2004, and April 26, 2004, respectively. In an effort to ensure that these Evidentiary Hearings are conducted as efficiently as possible, and in an effort to bring consistency to parties' Proposed Orders, the Presiding Officers have adopted certain procedures to be followed in these Causes. Some of these procedures may seem obvious, but may nonetheless be helpful in preventing any confusion. The Federal Communications Commission ("FCC") has imposed time limitations in which to complete these proceedings, which makes procedures promoting efficiency particularly appropriate in these Causes. The procedures set out in this Entry are in addition to any procedures that have already been established in previous Entries and in the Commission's November 5, 2003 Prehearing Conference Order.

## 1. Order of Witnesses, Stipulations and Waiver of Cross-Examination.

A. Cause No. 42500-S2. This Cause has proceeded with SBC Indiana as a challenger to the FCC's national finding of impairment with respect to unbundled high capacity loops and dedicated transport. With SBC Indiana having the burden of proof, the offering of evidence and cross-examination of the sponsoring witnesses should proceed at the Evidentiary Hearing in the following order: SBC Indiana's direct testimony, Joint CLECs' direct testimony, AT&T's separately filed direct testimony, and SBC Indiana's rebuttal testimony.

B. Cause No. 42500-S1. This Cause has proceeded with the parties simultaneously filing direct testimony and is scheduled to proceed with simultaneous filing of response and reply testimony. At the Evidentiary Hearing, as each witness is called, the entirety of that witness's prefiled testimony should be offered, with the

sponsoring witness tendered for cross-examination on the entirety of the prefiled testimony. The offering of evidence and cross-examination of the sponsoring witnesses should occur in the following order: SBC Indiana, each CLEC and/or joint CLECs, and OUCC.

C. Cause No. 42500. This Cause, like Cause No. 42500-S2, has proceeded with SBC Indiana as a challenger to an FCC national finding of impairment. In this Cause, SBC Indiana has challenged the finding of impairment with respect to unbundled mass market switching. Certain parties have simultaneously prefiled direct, response, and/or reply testimony on the subject of defining the market. In addition, in regard to the impairment finding, SBC Indiana has prefiled direct testimony, with the other parties scheduled to prefile direct testimony and SBC Indiana scheduled to prefile rebuttal testimony. The offering of evidence and cross-examination of the sponsoring witnesses should proceed at the Evidentiary Hearing in the following manner and order: the entirety of SBC Indiana's market definition testimony and SBC Indiana's direct impairment testimony, the entirety of each CLEC's market definition testimony and each CLEC's and/or joint CLECs' direct impairment testimony, the entirety of the OUCC's market definition testimony and the OUCC's direct impairment testimony, and SBC Indiana's rebuttal impairment testimony.

The parties should discuss and agree upon a specific order of individual witnesses for each of these Causes. An order of witnesses in each Cause should be prefiled with the Commission and served on all parties at least three business days prior to that Cause's scheduled Evidentiary Hearing commencement date. If all parties are able to stipulate to the admissibility of any prefiled testimony and agree to waive cross-examination of the sponsoring witness, that witness should be identified in the prefiled order of witnesses.

## **2. Objections to Prefiled Testimony.**

Any objection or question preliminary to an objection to the admissibility of prefiled testimony should be filed with the Commission and served on all parties at least three business days prior to the scheduled Evidentiary Hearing commencement date in the relevant Cause. At the Evidentiary Hearing, any prefiled testimony to which no objection or other notification has been prefiled will be admitted into evidence immediately following an offer to admit.

## **3. Proposed Orders.**

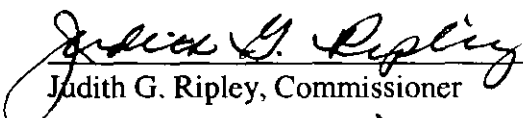
A schedule for filing post-hearing briefs and Proposed Orders in each of these three Causes was established in the Commission's November 5, 2003 Prehearing Conference Order. Given the FCC's directive that States complete these proceedings by July 2, 2004, we find that organizationally consistent Proposed Orders will help us to more efficiently compare and contrast proposals regarding the same issues. In the broadest context, Proposed Orders should include sections on: Background, Commission

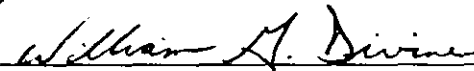
Notice and Jurisdiction, Summary of Evidence, Commission Discussion and Findings, and Order. Described below are more specific structural components that should be included in Proposed Orders in Cause No. 42500-S2. We may, through other Entries or from the bench, provide further directives as to the structure of Proposed Orders in these Causes.

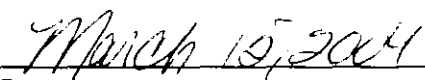
The Commission Discussion and Findings section for Proposed Orders in Cause No. 42500-S2 should be structured in a manner that first discusses and interprets the relevant sections of the TRO, including a discussion of the criteria or triggers being used by SBC Indiana to challenge the FCC's impairment determination. Following should be a discussion of each of the specific customer locations and transport routes identified by SBC Indiana as lacking impairment. This discussion should analyze the application of the trigger, identified as relevant by SBC Indiana, to each of these specific customer locations and transport routes. The Commission Discussion and Findings section should not necessarily be limited to the above components. Given these general guidelines, the parties should discuss among themselves and agree upon a consistent organizational and topical outline for Proposed Orders in Cause No. 42500-S2, including consistent titles/topics within a consistent numbering scheme for the sections, paragraphs, etc., to be included in the Proposed Orders. An agreed-upon outline for Proposed Orders in Cause No. 42500-S2 should be filed with the Commission and served on all parties on or before April 5, 2004.

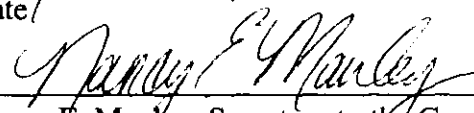
As to the Summary of Evidence section in each of these Causes, Commission Orders will be written in a manner or voice that objectively summarizes the parties' testimony. Therefore, a style of Proposed Order that we will not consider useful is one in which the evidence is summarized in a manner or voice that reads as if the Commission is promoting a particular position. A summary of the testimony of each witness will necessarily include the advocacy of a particular position, but that advocacy should be clearly attributable to the testimony of the witness and not to any express statements or implied opinions of the Commission. The place in the Commission's Orders, and in the parties' Proposed Orders, for the Commission to evaluate and comment on the evidence is in the Discussion and Findings section.

**IT IS SO ORDERED.**

  
Judith G. Ripley, Commissioner

  
William G. Divine, Administrative Law Judge

  
Date

  
Nancy E. Manley, Secretary to the Commission